

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 521 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

BHAVNABEN CHHATARSINGH WAGHELA

Versus

MUKESH DHIRENDRA SISODIA

Appearance:

MS SHALINI S MAIR for Applicant
MS JAYSHREE C BHATT for Opponent

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 26/06/2001

ORAL JUDGEMENT

1. Heard learned advocate Ms.Shalini S. Mair for the applicant and learned advocate Ms.Jayshree C. Bhatt for the opponent.

2. The applicant, who is the original petitioner in the proceedings of Hindu Marriage Petition No.77 of 2000 filed in the Court of Civil Judge (S.D.), Gandhinagar, has preferred the present transfer Application to transfer the proceedings of Hindu Marriage Petition No.4 of 1999 filed by the present opponent against the applicant in the Court of Civil Judge (S.D.), Nadiad.

3. The applicant has averred and contended in the Application that she has been residing within the local limits of territorial jurisdiction of Civil Judge (S.D.), Gandhinagar and as she was driven out of the matrimonial home, she has to stay at her parental place. In the meanwhile, the opponent has filed Hindu Marriage Petition No.4 of 1999 in the Court of Civil Judge (S.D.), Nadiad claiming the divorce under Section 13 of the Hindu Marriage Act. However, in the pending proceedings apart from raising the contentions in reply, the applicant has filed Hindu Marriage Petition No.77 of 2000 in the Court of Civil Judge (S.D.), Gandhinagar under Section 9 of the Hindu Marriage Act to enforce restitution of conjugal rights.

It is submitted at Bar on behalf of the applicant that it is difficult for the wife to attend the Court of Civil Judge (S.D.), Nadiad on every date and to avoid such hardship the proceedings initiated by the present opponent in the Court of Civil Judge (S.D.), Nadiad be transferred to the Court of Civil Judge (S.D.), Gandhinagar.

4. The opponent has filed affidavit-in-reply but except alleging malafied intentions of applicant to prolong the proceedings, no other contentions are urged. As against that it would not be unjust and improper, if the proceedings of Hindu Marriage Petition No.4 of 1999 is ordered to be transferred to the Court of Civil Judge (S.D.), Gandhinagar. So that both the proceedings could be disposed of by the Civil Judge (S.D.), Gandhinagar recording common evidence. The said view is fortified by the observations made by this Court in the matter of Shilpa Hargovinddas Patel v/s. Dr.Vishnubhai Chaturbhai, reported in 1999 40 GLR 2438.

5. On the basis of above stated discussion, the Application is allowed. The proceedings of Hindu Marriage Petition No.4 of 1999 filed by the present opponent in the Court of Civil Judge (S.D.), Nadiad is ordered to be transferred to the Court of Civil Judge (S.D.), Gandhinagar with a direction that the proceedings of the said Hindu Marriage Petition No.4 of 1999 be

clubbed with the proceedings of Hindu Marriage Petition No.77 of 2000 and both the proceedings be heard expeditiously. Rule to that extent is made absolute, with no order as to costs.

(A.K.Trivedi, J.)

(vrpanchal)*